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Advanced Labour Law

Course No. LAW204H1S F

Volume 2

2018 COURSE MATERIALS

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University of Toronto: Advanced Labour Law

Course No. LAW204H1S

(September to December 2018)

(Tuesdays 4:10 – 6:00 p.m. Rm J225)

Reading Timetable

Date (2018)

September 4 **Overview and Jurisdiction**

1. *Labour Relations Act, 1995*, SO 1995, c 1, Sch A, ss I(4)-(5), 69, 114, 126(3).
2. *Canada Labour Code*, RSC 1985, c L-2, ss 18, 18.1, 35, 44-47.3.
3. M.A. Hickling, "Interjurisdictional Transfers: Successor Rights at Arbitration" (1991) 2 Lab. Arb. Y.B. 223
4. *London and District Service Workers Union, Local 220 v Rogers Cantel Paging Inc.*, 1997 CanLII 15530 (OLRB).

September 11 **Successor Rights**

5. *Ivanhoe Inc. v UFCW, Loc 500*, 2001 SCC 47, [2001] 2 SCR 565 (CanLII).
6. *Sept-Îles (City) v Quebec (Labour Court)*, 2001 SCC 48, [2001] 2 SCR 670 (CanLII).
7. *Canadian Union of Public Employees v. Metropolitan Parking Inc.*, [1980] 1 CLRBR 197 (OLRB) (CanLII).
8. *Retail, Wholesale & Department Store Union, Local 414 v. New Dominion Stores,* [1989] 2 CLRBR (2d) 299 (OLRB) (CanLII).
9. *United Food and Commercial Workers International Union, Local 175 v. 1390386 Ontario Ltd. (c.o.b. Sobeys Ontario)* (2002), 86 CLRBR (2d) 268 (OLRB) (CanLII).
10. *Service Employees' Union, Local 183 v. Riverview Manor* (1983), 5 CLRBR (NS) 40 (OLRB) (CanLII).

11. *Hotel Employees Restaurant Employees Union, Local 75 v. Accomodex Franchise Management Inc. v. Accomodex Franchise Management Inc.*, [1993] OLRB Rep. April 281 (CanLII).

September 18 Successor Rights

12. *GMAC Commercial Credit Corporation - Canada v. T.C.T. Logistics Inc.*, 2006 SCC 35, [2006] 2 SCR 123.

13. *Canadian Union of Postal Workers v. Canada Post Corporation et al. (Sheldon Manly Drugs Ltd.)* (1987), 87 CLLC 16,049 (CLRB) (QL).

14. *Canada Post Corporation and Nieman's Pharmacy* (1989), 4 CLRBR (2d) 161 (QL).

September 25 Successor Rights

15. *National Automobile, Aerospace and Agricultural Implement Workers Union of Canada (CAW-Canada) and its Local 222, v. Charterways Transportation Limited, The Corporation of the Town of Ajax,*[1994] OLRB Rep. October 1296 (CanLII).

16. *Ajax (Town of) v. National Automobile, Aerospace and Agricultural Implement Workers Union of Canada* (1998), 41 OR (3d) 426, [1998] 166 DLR (4th) 516 (CA) (CanLII).

17. *Service Employees International Union, Local 204 v. Durham Access to Care* [2000] OLRD No 3408, 2000 CanLII 7273 (OLRB).

18. *Power Workers' Union - Canadian Union of Public Employees, Local 1000, C.L.C. v. Milton Hydro-Electric Commission,* 2002 CanLII 28840 (OLRB).

19. *Lincoln Hydro Electric Commission*, [1999] OLRB Rep. May/June 397, [1999] OLRD No 1264 (QL).

20. *Zellers Inc. (Store #264) and Target Canada co. and UFCW, Loc 1518* 2012 CanLII 68305.

21. *Adam v. Daniel Roy Ltée.*, [1983] 1 SCR 683 (CanLII).

October 2 Common Employer

22. *Tober Enterprises (1979) Ltd.(Re)* (2005), 109 CLRBR (2d) 220, [2005] BCLRBD No 2 (QL).

23. *Ontario Legal Aid Plan v. OPSEU*, [1991] OLRB Rep. November 1327 (CA) (QL).

24. *Air Canada (Re)*, [1999] CIRB no 44, [1999] CIRBD No 44 (December 22, 1999) (QL).

25. *Labourers' International Union of North America, Local 1059 v. John Hayman & Sons Company Limited*, 1984 CanLII 972, [1984] OLRB Rep. June 822 (OLRB).

26. *Service Employees International Union, Local 204 v. Durham Access to Care*(2000), 64 CLRBR (2d) 21, 2000 CanLII 12981 (OLRB).

27. *Calgary Zoological Society and CUPE, Local 37*, [2012] ALRBD No. 72 (ALRB)

28. *International Brotherhood of Electrical Workers, Local 353 v. Agincourt Electric (c.o.b. KNK Limited)* (1991), 10 CLRBR (2d) 270, 1991 CanLII 6117 (OLRB).

29. *Amalgamated Clothing & Textile Workers Union v. Homco Plastics Inc.,*[1993] OLRB Rep. May 411, 1993 CanLII 8031 (OLRB).

30. *Air Canada*, 2001 CLLC ¶220-010, 65 C.L.R.B.R. (2d) 50, [2000] CIRB 90 (CanLII).

31. *Penmarkay Foods Limited v. Retail Wholesale & Department Store Union, Local 414*, [1984] OLRB Rep. September 1214, 1984 CanLII 1128.

October 9 Intermingling

32. *Beachville Lime Ltd. v. Communications, Energy and Paperworkers Union, Local 3264* (2000), 67 CLRBR (2d) 50, 2000 CanLII 6299 (OLRB).

33. *Canadian Union of Public Employees Local 1263 v. Niagara (Municipality)* (2004), 104 CLRBR (2d) 145, 2004 CanLII 21970 (OLRB).

October 16 Contracting Out

34. *National Automobile, Aerospace Transportation and General Workers Union of Canada (CAW-Canada) and its Local 4271 v. Aramark Canada Ltd.*, (2001), 68 CLRBR (2d) 235, 2001 CanLII 17790 (OLRB).

35. Morton G. Mitchnick, "Contracting Out: Two Solitudes" (1998), 8 Lab. Arb. Y.B. 79

36. *Russelsteel Ltd. v. United Steelworkers of America (Collective Agreement Grievance)* (1966), 17 LAC 253 (Ontario) (Arthurs) (QL).

37. *School Division No. 13 (French Grievance)* (2003), 120 LAC (4th) 150 (Saskatchewan) (Hood) (QL).

38. *NorthwesTel Inc. and I.B.E.W., Loc. 1574, Re* (1996), 55 LAC (4th) 57 (Canada) (Kelleher) (QL).

39. *Ivaco Rolling Mills v. United Steelworkers of America, Local 8794 (Laframboise Grievance)* (1997), 67 LAC (4th) 66 (Ontario) (Adell) (QL).

40. *T.R.W. Canada Ltd. and Thompson Products Employees' Assn. (Chambers) (Re)* (2002), 113 LAC (4th) 364 (Ontario) (Goodfellow) (QL).

41. *York Federation of Students and C.U.P.E., Loc. 1281 (Re)* (2004), 132 LAC (4th) 444 (Ontario) (Keller) (QL).

October 23 Contracting Out

42. *Giant Yellowknife Mines Ltd. and C.A.S.A.W., Loc. 4, Re* (1990), 15 LAC (4th) 52 (Canada) (Bird) (QL).

43. *National Auto Radiator Manufacturing Co. and C.A.W, Loc. 195, Re* (1990), 16 LAC (4th) 45 (Ontario) (Marcotte) (QL).

44. *Canadian National Railways v. National Automobile, Aerospace, Transportation and General Workers Union of Canada (CAW-Canada), Local 100* (2004), 142 LAC (4th) 322 (Canada) (Chapman) (QL).

45. *International Forest Products* (2005), 144 LAC (4th) 51 (British Columbia) (McPhillips) (QL).

46. *Canadian Owner-Operator Workers' Association, Local 2001 v. Bridge Terminal Transport (Canada) Inc.*, 2007 BCSC 1653(CanLII).

47. *Hydro Ottawa Limited v. I.B.E.W., Local 636*, 2007 ONCA 292, (2007), 85 OR (3d) 727 (CanLII).

48. *Labourers' International Union of North America, Local 506 v. Dalton Engineering & Construction Limited*, [1988] OLRB Rep. June 567, 1988 CanLII 3667.

49. *Toronto Sun v. CEP*, Local 87-M, 2010 CanLII 63898 (ON LA).

50. *Vale Canada Ltd. v. United Steelworkers of America, Local 6500 (Contracting Out Grievance)*, (2012), 218 LAC (4th) 204 (QL).

51. *Essar Steel Algoma Inc. v. United Steelworkers, Local 2251* (2012), 216 LAC (4th) 14 (QL).

October 30 True Employer

52. *OPSEU v. OPAC/MPAC*, [2006] O.L.A.A. No. 609 (MacDowell)

53. *OPSEU v. MPAC,* 2013 CanLII 12695 (MacDowell)

READING WEEK: November 5 to 9

November 13 Changing Workplaces

54. *Drummond Commission Report*

55. *Changing Workplaces Review, Summary Report* (excerpts) [you can review relevant provisions of the Final Report here: https://files.ontario.ca/books/mol_changing_workplace_report_eng_2_0.pdf]

November 20 The Gig Economy

56. Jeremias Prassl and Martin Risak, "Uber, TaskRabbit, and Co.: Platforms as Employers? Rethinking the Legal Analysis of Crowdwork" (2016), 37 Comparative Labor Law & Policy Journal 619

57. Fay Faraday, "Demanding a Fair Share: Protecting Workers' Rights in the On-Demand Service Economy", Canadian Centre for Policy Alternatives (July 2017)

58. Danny Kaufer, "The Gig Economy: A Canadian Perspective", paper presented to the American Bar Association (May 2017)

59. Hannah Johnston and Chris Land-Kazlauskas, "Organizing On-Demand: Representation, Voice, and Collective Bargaining in the Gig Economy" (2018), Conditions of Work and Employment Series No. 94, International Labour Office

60. *Heller v. Uber Technologies Inc. et al.*, 2018 ONSC 718.

November 27 Remedies

61. *Retail Wholesale Canada, Canadian Service Sector Division of the United Steelworkers of America, Local 1688 v Diamond Taxicab Association (Toronto) Limited,* [1995] OLRB Rep. June 753, 19995 CanLII 9968.

62. *Communications, Energy and Paperworkers Union of Canada (Southern Ontario Newsmedia Guild, Local 87-M) v. Sun Media Corporation*, (September 11, 2009), 2009 CanLII 47253 (OLRB).